

APPROVED

# **TOWN OF WESTFORD**

## **BOARD OF SELECTMEN**

### **MINUTES**

**DATE:** January 13, 2004

**TIME:** 7:30 P.M.

**PLACE:** J.V. Fletcher Library

**PRESENT:** Christopher Romeo, Robert Jefferies, Dini Healy-Coffin,  
Allan Loiselle, James Silva-arrived 7:40 p.m.

#### **OTHERS**

**PRESENT:** Steve Ledoux-Town Manager, Audience Members

#### **Open Forum**

Jim Arciero, 18 Banbury Drive, co-chairman of the Westford 275<sup>th</sup> Celebration Committee, requested that the Board appoint eight (8) additional members to the Committee and expand the membership from fifteen (15) to seventeen (17), pursuant to a memo provided by Arciero. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED 4 IN FAVOR WITH 1 ABSENT (Silva), to amend the membership from fifteen to seventeen members for the Westford 275<sup>th</sup> Celebration Committee in accordance with the memo from Jim Arciero and to appoint Jane Carpenter, Jeff Ernst, Andy Olszowy, Pattie Mason, Sally Pratt, Paul MacMillan, Lenore Franklin, and Dottie Molignano to the Westford 275<sup>th</sup> Celebration Committee.**

#### **Licenses and Permits**

**Florence Pizza and Java Mama – It was moved by Healy-Coffin, seconded by Jefferies, and VOTED UNANIMOUSLY, to approve a Common Victualer's License for Florence Pizza and Java Mama.**

**Change of Manager – 99 Restaurant and Applebee’s Neighborhood Grill & Bar** – Ledoux reported that CORI reports have been received for both new managers. Healy-Coffin asked to defer the approval for the 99 Restaurant due to a question on the CORI report for Marty McDonald relative to a license suspension. There was no representation at the meeting from the 99 Restaurant. Ledoux to contact the 99 Restaurant. **It was moved by Healy-Coffin, seconded by Jefferies, and VOTED UNANIMOUSLY, to approve the change of manager for Applebee’s Neighborhood Grill & Bar to Clark S. Abysalh.**

**Update on 5-Year Budget Projection and Budget Process - Representative Geoff Hall and Senator Panagiotakos to provide Local Aid Update**

Representative Geoff Hall and Senator Panagiotakos were present. Panagiotakos reported that the State is looking at a \$2.5B structural deficit but increases in revenue will help to offset the deficit. Panagiotakos projected the Local Aid to be level funded or at a 2% to 3% increase. Panagiotakos reported that other revenue generating proposals are being reviewed. Liz Adams, Chairman of the Finance Committee, asked for an update on SBAB. Hall reported that SBAB will be reviewed by the House over the next few weeks. Panagiotakos indicated that there is a possible reform being considered for the SBAB. Margaret Murray, Chairman of the School Committee, expressed appreciation for the \$200,000 in growth money for the Westford school system. Murray asked Ledoux when budget reduction information would be available. Ledoux reminded the Board that in October the budget instructions to the town departments were to look at a 10% cut in the FY04 budget, the ramifications of those cuts and alternative to help offset the 10% cut. Ledoux indicated that he is working with Suzanne Marchand, Finance Director, regarding state aid assumptions of 10%, 5% and level funded. Ledoux presented a Fiscal Year 05 Budget Status Above (Below) Min Reserves. Ledoux reported that he will have a recommended budget presentation on February 10, 2004. Adams asked everyone to keep in mind that FY05 will be Westford’s biggest debt service year. Marchand stated that she will be discussing tax impacts at a future meeting.

**Selectmen to Set Annual Town Meeting Timeline**

Kaari Tari, Town Clerk, was present to review the proposed 2004 Annual Town Meeting and 2004 Fall Special Town Meeting timelines. Romeo asked Ledoux to invite Town Counsel to the meeting set for March 9, 2004 when the Selectmen are scheduled to vote on wording of a ballot question (if necessary) for an override. Healy-Coffin asked Tari to reverse the order of the following sentence regarding Tuesday, April 27, 2004: *Planning Board presents public hearing results on zoning-related articles to the Board of Selectmen. Selectmen review motions and take positions on all articles.* Silva asked Tari to amend the Fall Special Town Meeting timeline to include that same sentence with a date of Tuesday, October 12, 2004. Romeo asked Tari to publish the timeline on the Westford website.

**It was moved by Healy-Coffin, seconded by Jefferies, and VOTED UNANIMOUSLY, to adopt the timelines with the changes.**

**Park, Recreation and Cemetery Updates**

**Playground Safety Audit** – Pat Savage, Director of Parks and Recreation, updated the Board on the Playground Safety Audit dated August 30, 2003 regarding the Westford Community Playground at the American Legion ballfields. Savage outlined the safety concerns with the existing structures. Savage estimated that the cost to replace and install the surfacing would be \$9,000. Savage also estimated the cost to replace the structure with two modular structures and surfacing to be \$90,000 plus the cost of installation. Savage suggested fundraising efforts and Community Preservation Act funds could be used for financing the new playground. The Board agreed that repairs were necessary and recommended that the group of residents who originally installed the playground be notified as soon as possible. The Board was also concerned with dangers and liability. Savage stated that she will attempt to locate the original group. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve the removal of the playground at “The Westford Community Playground at the American Legion ballfields” in its entirety and to ask the Recreation Commission to put forth a plan to replace the equipment and start fundraising efforts; and to install *No Trespassing/Danger* signs until the structure can be removed completely.**

**Westford Community Playground and Sports Organization** – Savage referenced an agreement between the town and the sports groups regarding field maintenance and funding. Savage stated that the groups have agreed to pay 50% of the costs to maintain the fields for the first year. Savage asked that Town Counsel review the agreement. The Board concurred. Healy-Coffin asked Savage to continue to work on resolving the central booking issue relative to the use of the playing fields.

**Cemetery Plots in Pine Grove Cemetery** – Savage referenced a letter from Attorney Kathleen M. Kelly, dated November 19, 2003, regarding four cemetery plots in the Pine Grove Cemetery purchased by the Keelan family. Romeo stated that the issue appears to be a potential litigation matter and suggested that the letter be forwarded to Town Counsel. Savage noted that the Cemetery Commissioners did not respond to the letter. Ledoux to forward the letter to Town Counsel.

**Betterment Abatement Request, Doris Babbitt, 30 Edwards Street**

Paul Plouffe, Principal Assessor, was present representing Mrs. Babbitt, a senior citizen living at 30 Edwards Street. Plouffe explained that Mrs. Babbitt lives on a corner lot and that she had been assessed for two street betterments in 1992. Plouffe stated that both betterments are a burden for Mrs. Babbitt and requested that the Selectmen vote to grant a full abatement on the Trails End

Road betterment. **It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to grant the abatement.**

**Hiring Freeze Waiver Request – Fire Department Office Manager**

Richard Rochon, Fire Chief, was present. Ledoux recalled that the Board had granted a waiver from the hiring freeze for the Police Department Records Supervisor. That position has been offered to the Administrative Assistant for the Fire Department. The Administrative Assistant position was non-union and the Records Supervisor is a union

position. Ledoux reported that the CWA Union has filed a grievance indicating that the Records Supervisor position should have been filed by a union member. The grievance will be heard on Thursday, January 15, 2004. Ledoux recommended waiving the hiring freeze pending the outcome of the grievance hearing. **It was moved by Loiselle, seconded by Jefferies, and VOTED UNANIMOUSLY, to conditionally accept the recommendation (to fill the position) pending the outcome of the grievance.**

### **Nabnasset Partners LLC Request to Release Three (3) Affordable Housing Units at Brookside Mill**

Ellen Doucette, Town Counsel and Suzanne Poitras, representing Nabnasset Mills Partners LLC, were present. Doucette referenced a letter from Elaine Lucas, Town Counsel, regarding the Annual Town Meeting action of May 2003 in which the Town voted to expend \$150,000 for eight affordable units. Doucette stated that Lucas felt that the Town Meeting would have to amend the vote since the developer did not receive the DHCD funds. Romeo stated that the Purchase and Sale Agreement predates the Town Meeting vote and that the Town is bound by the Purchase and Sale Agreement. Ledoux suggested that this matter be explained to Town Meeting in May 2004. Romeo asked that this be placed on the Annual Town Meeting Warrant. Doucette explained the Right of Reverter Clause in the Purchase and Sale Agreement. Ledoux reminded the Board that DHCD made a determination to provide funding directly to the Housing Authority.

Romeo asked Ledoux for an update on the assessment to the Brookside dam and gate damage. Ledoux reported that the consultant hired to assess the dam has completed the assessment and indicated approximately \$6,000 in damage to the gate. Ledoux stated that he needs to review the report with Mr. Boucher and also make a presentation of the report to the Board. Romeo stated that Boucher will be held accountable for the gate damage.

Romeo pointed out that there is a requirement of sorts in the Purchase and Sale Agreement in which the Town is supposed to assist Boucher in the preparation of the DHCD application. Ledoux clarified that the requirement is a reimbursement of Boucher's costs. Romeo suggested that the requirement for reimbursement be a negotiation item before the release of any lots since the application ultimately failed. Poitras pointed out that the Purchase and Sale Agreement speaks to the preparation of the application and the closing of the

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loan assuming DHCD funds are forthcoming. Romeo stated that he would like to see a good faith gesture from Boucher prior to the release of the affordable units. Poitras stated that Boucher had applied for construction funding assuming DHCD funds and now has to find other funding to make up for that shortfall which is costly and time consuming. Romeo suggested that Poitras ask Boucher what he will do for the Town regarding the \$20,000 on the failed DHCD application. Poitras stated that she would speak to Boucher.

Healy-Coffin stated that she is extremely pleased with the quality of the work and how it has improved that section of Town. Healy-Coffin encouraged the Board to move forward and settle the Reverter so that Boucher could move ahead.

Jefferies questioned the amount of the front-end costs associated with the DCHC application.

**It was moved by Jefferies, seconded by Healy-Coffin for discussion, to approve the request of release for three affordable units on the Right of Reverter contingent upon submission of the actual costs for the application incurred by the developer.**

Romeo stated that his continued disappointment with the mill has to do with the developer originally setting up 35 units that were ownership property. The Board worked with the neighbors over several months to accommodate the request to convert to rental units. Then the developer again requested a change to ownership units thus reducing to eight the affordable units. The MHP application was denied and the project was down to five affordable units.

Loiselle stated that he understood Romeo's frustrations. Loiselle expressed his support of the developer and the mill project.

Jefferies stated that the State failed to come up with the money as they have done time after time. Jefferies felt that the problem was with the State not the developer. Jefferies pointed out that the developer is meeting the requirements under the Purchase and Sale Agreement and urged the Board to move forward.

Silva expressed disappointment with losing the affordable units but felt that project looked good and that it was time to move ahead.

**VOTE ON JEFFERIES MOTION: Unanimous.**

**Request of Waiver from Sign Permit Regulations for Parish Center for the Arts**

Laurie Miller, Parish Center for the Arts, was present seeking a sign permit for the building located at 10 Lincoln Street. Jefferies pointed out that the sign permit is under the purview of the Planning Board based up recent changes to their Rules and Regulations.

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**It was moved by Jefferies, seconded by Healy-Coffin, and VOTED UNANIMOUSLY, to recommend that the Planning Board grants this permit.**

**Selectmen to Comment on Waivers Requested for Concord Place 40B Project**

Sam Frank, Chairman of the Zoning Board of Appeals, was present seeking input from the Board regarding the list of requested waivers for the ten unit 40B project currently under review for Concord Place located at 137 Concord Road. The list of waivers included Section 6.3 Growth Management, and waivers from all Building Permit, Inspection, Application, Connection Fees and any other Town of Westford fees as they may be applicable.

Romeo stated that he had asked Ledoux to invite the Board of Health, Conservation Commission and Planning Board to speak on the ability of the site to perk test. Romeo

was concerned if the density of the site imperils abutting septic systems and public safety. Frank reported that the Board of Health met last night to discuss Concord Place. Frank noted that it has been reported that the soil on the site is satisfactory. Frank stated that there are no wetlands associated with the site. Frank stated that Zoning Board of Appeals will be meeting on Wednesday, January 21, 2004 to review the comments from the various town departments.

Jefferies urged caution in waiving septic regulations regarding the local 150 gallons per day requirement given the history throughout of the Town of failed septic systems. Frank reported that the Board of Health felt that 110 gallons per day was adequate for the Rosegate development on Main Street. Silva was concerned that if the Town does not give a waiver for the septic the Housing Appeals Court might give the waiver. Silva stated that he was not comfortable making comments on technical issues when the Selectmen have not reviewed any plans. Jefferies was concerned with compromising the bylaw and setting a precedent by waiving the septic regulations from 150 gallons per day to 110 gallons per day. Loiselle felt that the site should be over-engineered as much as possible given the density. Loiselle felt that asking for a waiver was not justification for granting a waiver. Loiselle felt that the function of the design drives the Growth Management and suggested that not all of the units be released from Growth Management at once but rather based upon the configuration of the units. Jefferies asked if the Zoning Board could grant the waiver for Growth Management but impose its own schedule. Frank stated that he would have to research that matter. Romeo suggested that if the Growth Management is waived, the affordable units are kept on-line before completion of the project. The Board was not in favor of waiving any of the fees. Frank reported that the Zoning Board did not waive the fees for the Rosegate Development.

### **Licenses and Permits**

**Entertainment License Benefit Concert for Music and Foreign Language Department – Westford Academy, June 12, 2004 11:00 AM to 11:00 PM (rain date June 13<sup>th</sup>)** – The Board has several concerns regarding parking, traffic control, crowd control, first aid, Board of Health issues relative to the food, neighborhood impacts, etc. Healy-Coffin offered to e-mail Anthony DeGennaro, Concert Coordinator, and update the Board at the next meeting.

### **Main Street Banner Request – “Chocolate Sunday” February 8, 2004 –**

**It was moved by Jefferies, seconded by Healy-Coffin, and VOTED UNANIMOUSLY, to approve.**

**Notice from ABCC for the Board’s Signature** – Notice received seeking the Board’s signature confirming that Kolova Market, 228 Littleton Road, did not ask to renew their wine and malt license for 2004.

## **Franklin Property**

No Report at this time.

## **Minutes**

It was moved by Healy-Coffin, seconded by Loiselle, and VOTED UNANIMOUSLY, to approve the minutes of November 18, 2003 (regular session); November 18, 2003 (executive session) but NOT release to the public; and December 2, 2003 (regular session).

## **Board Reports/Updates**

**40B Performance Standards Committee** – Silva reported that the Committee met last week and is moving along with the preparation of the 40B performance standards.

**Permanent School Building Committee** – Jefferies reported that the PSBC will be closing out the Miller and Crisafulli Schools with the middle school punch list being greatly reduced. Loiselle asked to look at field maintenance for the Stony Brook School at a future meeting. Jefferies suggested that the Board get input from the Integrated Pest Management Committee.

**Comcast** – Silva reported that the Cable Division decided to allow Comcast to increase the basic tier rate by approximately 10%. Jefferies urged the Cable Committee's counsel, Peter Epstein, to look into taxing Comcast per mile for the internet in the Town's right-of-way. Loiselle was concerned that customers will end up paying for the internet tax. Romeo questioned whether the Town had the authority to tax Comcast. Silva believed that the internet was federally regulated but will speak to Epstein. Jefferies noted that the Town never gave Comcast permission to use the Town's right-of-way for the internet. Silva pointed out that the Cable Committee is continuing to negotiate with Comcast.

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**Attorney John Leggat** – Romeo expressed condolences to the Leggat family on the recent passing of Attorney John Leggat, the former Town Moderator and World War II Marine veteran.

**Affordable Housing Kickoff Forum** – Romeo reported that the forum that was held on Monday, January 12, 2004 was well attended. A presentation was made by John Ryan regarding the Affordable Housing Plan. Romeo stated that the power-point presentation is available for viewing on the Town's website.

**House Fire on Buckboard Drive** – Silva commended Marie Caloggero of 7 Haywagon Circle for efforts with the neighbors during a recent house fire on Buck Board Drive.

**Executive Session** – Ledoux requested a brief executive session to update the Board on the recent negotiating session held with the Westford Police Association.

## **Correspondence**

Romeo read the list of correspondence.

## **Vote to Go Into Executive Session**

The Board voted to go into executive session at 10:25 for the purpose of discussing negotiations with the Westford Police Association. A polling of the Board: Romeo-yes; Jefferies-yes; Healy-Coffin-yes; Loiselle-yes; Silva-yes. The Board to reconvene to regular session for the purpose of adjourning only.

### **Open Items**

1/13-1 Ledoux to contact 99 Restaurant re: Change of Manager Request - question on CORI for Marty McDonald.

1/13-2 Board to take action on Change of Manager Request for 99 Restaurant on 1/27 if satisfactory CORI information is received.

1/13-3 Ledoux to invite Town Counsel to 3/9 meeting re: possible ballot question.

1/13-4 Ledoux to forward letter from Atty. Kelly to Town Counsel re: cemetery plots in Pine Grove Cemetery.

1/13-5 Healy-Coffin to e-mail Anthony DeGennaro, Concert Coordinator, re: event scheduled for June 12<sup>th</sup>. Healy-Coffin to update Board on 1/27.

1/13-6 Ledoux to schedule on ATM Warrant discussion item re: Brookside Mill.

1/13-7 Ledoux to schedule a presentation for the Board re: dam repair report at Brookside Mill.

1/13-8 Ledoux to meet with Boucher re: dam repair report at Brookside Mill.

1/13-9 Board to discuss field maintenance at Stony Brook School at future meeting.

1/13-10 Silva to discuss with Atty. Epstein the suggestion to tax Comcast re: use of internet/town right-of-way.

### **Reconvene to Regular Session and Adjournment**

The Board reconvened to regular session at 10:31 p.m. It was moved by Healy-Coffin, seconded by Jefferies, and VOTED UNANIMOUSLY, to adjourn the meeting.

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Steve Ledoux, Town Manager

Christopher Romeo, Chairman